

NATURAL RESOURCES BOARD

MINUTES

The regular meeting of the Natural Resources Board was held on Wednesday, April 24, 2002, in Room 027 of the State Natural Resources Building (GEF 2), Madison, Wisconsin. The meeting was called to order at 8:40 a.m. All April Board Agenda business was conducted by the Full Board.

PRESENT: Trygve A. Solberg, Chair
James E. Tiefenthaler, Vice Chair
Gerald W. O'Brien, Secretary
Herbert F. Behnke
Catherine Stepp
Stephen D. Willett

ABSENT: Howard D. Poulson

ORDER OF BUSINESS

1. Minutes to be approved.

1.A. Full Board Minutes of March 27, 2002.

Mr. Tiefenthaler MOVED, seconded by Mr. Willett, approval of the Full Board Minutes of March 27, 2002, as presented. The motion was carried unanimously by those members present. (Mr. Poulson was absent)

1.B. Agenda for April 24, 2002.

Secretary Bazzell, asked that the following changes be made: Addition under Committee of the Whole item 3.E.5. retirement resolution of David Sabrowsky and item 3.E.6. retirement resolution of Valley Buckley; and item 3.F. Informational Item-Update on Chronic Wasting Disease. Under Land Management deferral of item 6.B.4, Statewide Natural Area land donation-Sauk County. Under Department Secretary's Matters, addition of item 7.B. Request from the Joint Legislative Committee for Review of Administrative Rules for Modifications to Order WM-40-00, Wis. Adm. Code, pertaining to December deer hunt of Deer 2000 Administrative Rule recommendations (adopted by NRB January 24, 2001) (Item 3.E. Minutes of January 24, 2001) (Modifications of Order WM-40-00 May 23, 2001) (Item 7.C. Minutes of May 23, 2001) (Modifications of NR 10 deer season frameworks October 24, 2001) (Item 7.B. Minutes of October 24, 2001) (Resolution by NRB December 5, 2001) (Item 4.1 Minutes of December 5, 2001) (Modifications of Order WM-40-00 March 27, 2002) (Item 7.A. Minutes of March 27, 2002).

With those changes, Mr. O'Brien MOVED, seconded by Ms. Stepp approval of the agenda for April 24, 2002. The motion was carried unanimously by those members present. (Mr. Poulson was absent)

2. Ratification of acts of the Department Secretary.
A. Real estate transactions.

Mr. Behnke MOVED, seconded by Mr. Willett, approval of the real estate transactions, as printed. The motion was carried unanimously by those members present. (Mr. Poulson was absent)

3. Committee of the Whole.

3.A. Citizen Participation.

3.A.1. **Patricia Randolph**, Madison, representing RAVEN (Raising Awareness of Endangered Nature), spoke on the process of vote, non-hunter participation, and the responsibility of DNR to get the vote out to the non-hunter population. She handed out packets to the Board which included a copy of her written presentation; a letter dated December 27, 1999

addressed to Patricia Randolph from Steven P. Oestreicher, Chairman of the Wisconsin Conservation Congress; a letter dated April 22, 2002 from Erik Brynildson, RLA/Ecologist of Fountain Lake Farm National Historic Landmark of Montello, Wisconsin; an e-mail letter addressed to the Wisconsin Natural Resources Board from Rozan K. Withrow and Stanley H. Withrow of Ducks Are Us; an e-mail letter from Ed Anderson of Whitefish Bay addressed to the Wisconsin Natural Resources Board; and an e-mail letter from Ann Fleischli of Madison introduced in Dane County on April 8, 2002. Ms. Randolph requested that her handouts to be made public records. Ms. Randolph called for reform in the voting process to include non-consumptive, citizens safely and conveniently. She asked the Board to form a task force with concerned citizens who are non-consumptive to create a brochure for the non-consumptive citizens to learn that there is a vote and election, to describe the process and how it works, and disseminate this information to the library system, community centers, ethnic minorities, schools, and newspapers to be given outside of the outdoors pages. She stated that she was calling for a get out the vote effort by the Department of Natural Resources to inform the citizenry of their rights to be involved in decisions about nature and wildlife.

Mr. Behnke - We do appreciate the opportunity for citizens to come before this Board and express their concerns, their feelings, and proposals, such as you have just done. And, it is a cardinal rule of the Board to not debate with someone who does that or tries to oppose a position. We are here to listen to what you have to say. But, what you are saying is somewhat controversial and I would like to ask Al Phelan to respond as it relates to the Conservation Congress since he is the liaison with the Department and the Congress. Would you approve that Mr. Chairman?

Chairman Solberg - Yes. Mr. Phelan could you respond?

Mr. Phelan - Regarding the Department not getting the word out to the general public, I would like to go through the mailing list that I send out on the spring hearing questionnaire. It was sent to all the clubs in the state of Wisconsin, which is about 960 and not all of those clubs are hunting clubs or fishing clubs. The Timber Wolf Alliance, the Audubon Society, a lot of non-consumptive clubs are on that list. It gets sent to all members of the Conservation Congress, which is 360 members; every public library in the State of Wisconsin, which is 375; to all the Department of Natural Resources ALIS License agents, which includes K-Marts, WalMarts, other shopping areas that are not exclusively sporting goods stores. The Conservation Congress has a web page that had over 4,000 hits regarding the spring hearing this year. The Department of Natural Resources sent out two news releases prior to the spring hearing. Those news releases go to every radio station, television station, every daily and weekly newspaper, in the State of Wisconsin. We also had one release after the hearing informing the public of the results. In the year 2000 we had over 30,000 people that attended the spring hearing. The largest public hearing in the State of Wisconsin ever held, probably the largest public hearing ever held in the United States. This year we had over 11,000 people attend the spring hearings. We generate 30,000 copies of the spring hearing questionnaire. Ms. Randolph, in fact, did receive 750 copies of this questionnaire for her distribution. Mr. Phelan presented the Board members with a copy of the questionnaire that Ms. Randolph distributed to the Madison library, with an attachment. I know she worked pretty hard at getting some members of the public she felt represent her same point of view, and she was able to generate 68 people out of almost 800 people at the Dane County hearing. I am judging the 68 people on the number of votes that her candidate received. The Congress, a few years ago, formed an ad hoc committee to study the spring hearing process. It involved the League of Women Voters, Madison Audubon Society, some of the Conservation Wardens that were involved in the spring hearing as warden officers, two legislators, and several members of the Conservation Congress. That committee, I believe, met seven times. We came up with changes to the spring hearing process, including written ballots of some of the most populous counties. We used that in 17 counties this year. We also do accept written comments, which is a state requirement. In fact, the only requirement for public hearing is to accept the written comment. Those comments are not tallied as votes and that is explained in the hearing officers' explanation at the hearing. It is also explained in the notice of the hearing. The written comments are reported to the Board, as you folks know when you get the program report, as to how many comments were made and to what position those comments were. In closing I would like to say that every year this is the largest hearing ever held in the State of Wisconsin and the public does know about it. The public has an opportunity to show or not to show. The people who show are the ones that care about it.

Discussion pursued regarding: which section of the newspaper notices are published, all folks not knowing about the Conservation Congress and what it is, making the hearings more accessibly safe, folks not feeling safe, comfortable or welcome at the hearings.

- 3.A.2. **Donna White**, Cambria, as President representing the Association of Wisconsin Snowmobile Clubs, spoke on the long term relationship of deer hunting and continuing development of the snowmobile industry. Ms. White passed out a memorandum from the Association of the Wisconsin Snowmobile Clubs, Incorporated, dated April 10, 2002,

regarding a proposal to modify gun deer hunting rules in December. This was brought before the Joint Rules Committee on April 11, 2002 where the agreement and ruling made that T-zones would not be extended or any season extended north of Highway Eight for this winter. She stated that she appreciated that ruling. She stated that she wanted to reaffirm the position of the snowmobilers statewide. She further stated they need the access to the land to prepare the trails and if they are fortunate enough to have snow they can open those trails statewide. Ms. White further stated they realize that the Department is faced with an immediate situation to deal with chronic waste disorder and the Board and Department needs to do what is necessary regarding chronic wasting disease. This is an immediate problem and the issue has a definite impact on the state's economy and they hope that it doesn't carry into the winter recreational economic benefits. Mr. White stated the association still stands firm but realizes that the Department and the Board needs to do what is necessary for the chronic waste disorder and that it is an immediate situation.

Discussion pursued regarding clarification of T-zones for over population of deer in certain deer management units.

- 3.A.3. **Orv Langohr**, Cleveland, representing the Association of Wisconsin Snowmobile Clubs, spoke on the long term relationship of deer hunting and continuing development of the snowmobile industry. Mr. Langohr updated the Board on the feelings of the association. Along with some hunters, the association still objects to the December deer hunt. Mr. Langohr stated that he had the opportunity to go to the committee hearings around the state, missing one. The hunters out there left the message that they did not want the T-zone hunts and they expected them to be eliminated. He further spoke of the December 1 to the March 15 season, which the DNR has for snowmobiling in the State of Wisconsin. If the association and the deer season coexist in December he asked why shouldn't they be able to coexist at other times during the year. Mr. Langohr discussed the previous and last snowmobile season and the weather situations. Mr. Langohr stated that he believes that a comprehensive plan regarding the present deer situation definitely should be done. He felt, that when all the facts are in, the association will stand with the Department in cooperation with getting chronic wasting disease under control.

Discussion pursued regarding: adequate base of snow for snowmobiling, snowmobile season, and landowners feelings on snowmobile trails with an adequate base of snow.

- 3.A.4. **Jessica Garrels**, Madison, representing Wisconsin Student Public Interest Research Group (WISPIRG), speaking on NR 151 Non-Point Issue. She explained what WISPIRG is and what they represent. She asked for the support of mandatory buffers for the non-point rules between farmland and waterways. Ms. Garrels presented the Board with a copy of a report entitled "Phosphorus in Runoff Pollution in Wisconsin" by the WISPIRG Foundation that shows waters across the state that contain high levels of phosphorus. She stated that what is particularly concerning is that counties that aren't eligible for CREP have high levels of phosphorus in their waterways. She presented examples of these counties. Ms. Garrels also presented the Board with a letter signed by 21 scientists and other professors from across the University of Wisconsin System which support buffers being a mandatory component for agriculture in the non-point rules. She also presented 59 public comment cards to the Board. Supporting mandatory buffers, Ms. Garrels presented bags of grass seed to the Board members symbolizing the need for vegetative buffers to protect and clean up Wisconsin's waterways.

- 3.B. Into the Outdoors Emmy Award by Mark Rose to Secretary Bazzell.

Mark Rose, President of Discover Wisconsin Productions, Incorporated, stated that the Department of Natural Resources has worked with Discover Wisconsin Productions, Incorporated, to produce a half-hour children's outdoor and environmental adventure television show called "Into the Outdoors". During its first season, Into the Outdoors won an Emmy for Outstanding Achievement for Children's Programming from the Chicago/Midwest Chapter of the National Academy of Television Arts and Sciences. He recognized staff and thanked them for their hard work in contributing to receiving this Emmy Award. Mr. Rose presented the Into the Outdoors Emmy Award to Secretary Bazzell and the Department of Natural Resources.

Secretary Bazzell accepted the award for the Department of Natural Resources. He stated that Chairman Solberg encouraged the Department to the point that they could work with Discover Wisconsin. He further stated that this is a wonderful tool to reach out to young people. Secretary Bazzell stated that the stars in the show are often Department employees, showing a large audience the things they do, why they are so special and so important. Secretary Bazzell thanked the staff for giving so much of their time to help make this show a success.

3.C. Presentation of the Rebecca Wallace Award by Secretary Bazzell.

Rebecca R. Wallace had been an environmental engineer with the Department of Natural Resources, since 1979. At the time of her death, she was Chief of the Runoff Management Section, in the Watershed Management Bureau. Becky was a persistent advocate for improvement and protection of Wisconsin's water resources. Her vision for the state's Non-point Program was clear and succinct: Clean Water. Becky became a symbol of what goals could be achieved through not only hard work and dedication, but also with compassion and empathy for others. Becky and her husband, Lyle, died in an automobile accident on February 22, 1997, leaving three children, Spencer, Mitch, and Jeremy. Joined by the Wallace children, Mitch and Spencer, Secretary Bazzell presented them with gifts. Secretary Bazzell, in recognition of the Wallace children, announced that Warden Ron Preder was this year's winner of the Rebecca Wallace Award.

Ronald Preder, Walworth and Waukesha Counties Warden Team Supervisor, has distinguished himself as a person who "puts people first" in his 14 years of supervising Southeast Region conservation wardens. He has supervised some 25 wardens in his career and has been the initial supervisor for many, in the two highly populous counties of Waukesha and Milwaukee. Ron has been instrumental mentoring new recruits in the Southeast Region where demands on the diverse natural resources are heavy. Many he has supervised now have very successful careers as conservation wardens. He especially excels in mentoring staff and "walks the walk" in his commitment to workforce diversity through special projects he created. Ron's work with the Department of Transportation, consultants and contractors has had "a dramatic and positive impact" on these relationships. His work on construction site erosion problems with roadway projects in the Southeast Region will undoubtedly pay big dividends in protecting our resources for years to come. According to his supervisor, Kevin Mickelberg, and the many others supporting this nomination: Ron has had a tremendous impact on many people throughout the state. "He teaches us how to be not only a great employee and warden, but also a great person."

Warden Preder stated that he was surprised that he was nominated as the recipient of the Wallace Award. Since being nominated for this Award he read much about Rebecca Wallace and communicated with those that worked with her. Her dedication to staff both internally and externally was commended. He stated that he feels the Department has moved in the direction she believed in. He thanked his wife, Barb, the management and supervisory staff, and current and past teams that he works with and that he worked with in the past. Warden Preder thanked the Wallace family in their continued support of this Award.

3.D. Approval of proposed revisions to M.C. 1103.1 - Operating Procedures of the Natural Resources Board.

Board Member O'Brien presented the approval of the proposed revisions to M.C. 1103.1, Operating Procedures of the Natural Resources Board.

s.23.12, Wis. Stats., to Article II, Authority and Responsibilities and Amend article VII of the M.C. 1103.1 Manual Code, to read as: "Individual Board members shall have authority to do whatever is reasonably necessary to carry out the powers and duties of the Board set forth in s.15.05(1)(b), Wis. Stats., (. . . the powers and duties of the Board shall be regulatory, advisory, and policy making. . .). Such action shall include but not be limited to attending meetings, visiting sites, and meeting with individuals and groups as required. Provided, however, that no statements or representations made by individual Board members shall be considered the position of or bind the Board unless specifically authorized. Interim work by standing committees may be conducted by the assigned committee of the Board between regular Board meetings. The chair person of each committee shall have the power to conduct meetings and public hearings when necessary."

Mr. O'Brien MOVED, seconded by Mr. Behnke, approval of proposed revisions to M.C. 1103.1 Operating Procedures of the Natural Resources Board, as presented. The motion was carried unanimously by those members present. (Mr. Poulson was absent)

3.E. Retirement Resolutions.

- 1) Cyril Griesbach.
- 2) Kay Scott.
- 3) Conrad Stein.
- 4) David Weber.

- 5) David Sabrowsky.
- 6) Valley Buckley.

Secretary Darrell Bazzell, reviewed the careers of each retiree and commended them for their excellent years of service to the Department and to the State of Wisconsin.

Mr. Behnke MOVED, seconded by Mr. Willett, approval of the retirement resolutions, as presented. The motion was carried unanimously by those members present. (Mr. Poulson was absent)

3.F. **INFORMATIONAL ITEM** - Update on Chronic Wasting Disease.

Tom Hauge, Director of Wildlife Management, presented the update on chronic wasting disease in the State of Wisconsin. With a PowerPoint presentation, Mr. Hauge stated that a disease of this type requires a partnership of state and federal agencies. This is a disease that threatens both Wisconsin wild deer herds as well as its captive deer and elk industry. He stated that the Department of Natural Resources is part of a team with the Department of Agriculture, Trade, and Consumer Protection, Health and Financial Services, Wisconsin Veterinary Diagnostic Laboratory, USDA APHIS Wildlife Services, the University, and non-governmental organizations. Mr. Hauge went on to explain the structure of the teams and their goals as follows:

- Communications - maintain a free flow of information and opportunity to comment and discuss with Wisconsin citizens on CWD, management actions, and best available scientific information using news releases, fact sheets, public meetings, and web sites.
- Overhead - securing the funding and resources needed to respond to chronic wasting disease. Funding: USDA request for \$15 million, \$4 million one time from wildlife damage account, get lab up and running.
- Logistics - to get the job done they need interagency MOUs, contracts, donations, equipment, and personnel.
- Health and Science - planning what Wisconsin needs to do to manage CWD: captive and free ranging cervid - disease management involves herd reduction, carcass disposal, and baiting and feeding. Research - diagnostic procedures, transmission, and modeling.
- Operations - putting the plans into action: captive cervid rules, 500 deer collection, 2002 hunting season, lab operations, meat processing plans, core area management, statewide surveillance, and fall operations.

Julie Langenberg, Wildlife Health Specialist Veterinarian, with a PowerPoint presentation, updated the Board on the surveillance results to date. As of April 23, 2002 the most recent sampling results they have on all the deer that were sampled from the 500 deer goal in the surveillance area. They actually were able to get results on 516 deer. Dr. Langenberg presented a map representing the 11 positives that were found from the 500 deer goal surveillance sampling and also the three positives that were identified last fall from the collection of the Mt. Horeb registration station. The newest positive is in the southeast corner of the Town of Arena, which came in with the last batch of results yesterday, April 23, 2002. It also falls within that cluster they have been seeing all along, as results have been received back. Obviously, they perceive the clustering as some good news that, at least based on this sampling combined with the fall sampling, that positive results that have been identified are somewhat localized. There is about a 13-mile spread between the farthest of the positive samples. Dr. Langenberg pointed out on the map where the deer were collected, both during the 500 deer sampling and information they have about last fall's sampling. They are currently, as part of the beginning of their evaluation of these data, re-evaluating the accuracy of the areas. At this point, this is raw data in terms of the location of the sampling. She further reviewed and described the Health and Science Team as follows:

- Health and Science Team - planning what Wisconsin needs to do to manage CWD. Captive and free ranging cervids surveillance, control and prevention, research, scientific information and networking.
- Disease control - population reduction plan, plan for additional surveillance, and plan to reduce sources of transmission and spread.
- Statewide CWD surveillance - goal is to fill in the gaps, statistically significant sampling to determine whether CWD is present elsewhere in the state, and challenge is to have enough sampling or testing capacity.
- Lab capacity - critical to achieving surveillance and control goals, working with state, federal, and private partners; goal is a rapid, high volume test and to be ready by the fall.
- Carcass issues - prevent spread of CWD by carcass transport and disposal; carcass movement restrictions. Safe disposal of carcass parts by hunters, processors, taxidermists, and laboratories.

- Control of baiting and feeding - review of information and expert opinion on CWD transmission, epidemiology, and control. Recommendation - prohibiting baiting and feeding is critical to controlling spread and intensity of CWD.

Dr. Langenberg reflected on the team reviewing the available information, especially information from Colorado where they are doing work looking at areas of high density mule deer populations in urban suburban areas where feeding is a common activity. They have identified that the highest prevalence seen in wild deer are in areas where you have both those factors, high density and common practice of providing an artificial food source. The team has reviewed all this information. Having reviewed what they know of transmission of this disease, the inter agency the Health and Science Team, on April 23, unanimously recommended that as part of the component of control of chronic wasting disease in this state. That it is critical that baiting and feeding be prohibited to decrease that congregation of deer.

- Disease modeling - computer assisted look at the past, present, and future of CWD in southern Wisconsin deer. Tool to assess likely outcomes of various control strategies.

Discussion pursued regarding the state of the science, what we really know about the disease, putting together a coalition with other states having the same problem, how did the disease may have gotten to Wisconsin, human assistance, baiting and feeding.

Mr. Behnke - Presented and read a letter in its entirety from Dr. Leonard H. Wurman, a retired physician and columnist. The letter reflected on two recommendations. One was immediately stop baiting and feeding in order to lesson deer to deer contact. Whatever the transmission close contact is apparently necessary. The second recommendation was just as strong but more controversial and that was to have legislature put deer and elk farms under the auspices of the Natural Resources Department. Dr. Wurman also suggested that the Department of Natural Resources find out where the calcium and phosphorus in deer blocks and other mineral supplements come from, suggesting they may contain animals or parts of animals as they do in Europe. Mr. Behnke passed this letter onto Dr. Langenberg for her future reference.

Discussion pursued regarding: set up of laboratories, permits for these labs, what the Board can do to facilitate the labs, jurisdiction over the labs, commercial firms, getting testing capacity as quickly as possible, the possibility of being ready by December 16, 2002, foot and mouth disease, baiting and feeding, Michigan and their tuberculosis problem, and research.

Bill Vander Zouwen, Wildlife and Landscape Ecology Chief, spoke in regard to the hunter's side of CWD. Mr. Vander Zouwen stated that this is not a DNR problem it belongs to all of us. He stated they need to get people to think that they are going to solve this problem together. With a PowerPoint presentation Mr. Vander Zouwen reviewed:

- Hunting regulations - hunters face the challenge of their lives.
- CWD management philosophy - be aggressive, error on side of over-control rather than letting the disease spread.
- Impacts of CWD - concern for human health and livestock health; hunter participation; initial deer herd growth if less hunting; agricultural damage; timber damage; deer-vehicle collisions; meat processors; economy; department revenue; property values; deer mortality; and deer population collapse.
- Core area management strategy - reduce deer numbers in infected area as low as possible with hunting and other methods.
- CWD management zone strategy - reduce deer numbers below goals in units within 30-40 miles of surveillance area center with hunting only.
- Primary herd reduction tool - landowners, gun/archery hunting seasons (October 24-January 31, landowner permits (year round, similar to agricultural damage shooting permit program).
- Permit system options - earn unlimited bucks by shooting antlerless deer for each; either sex first tag, plus earn unlimited additional bucks; unlimited either sex tags.
- Firearm restrictions - rifles allowed in entire CWD management zone.
- Deer registration - all deer taken in the CWD management zone must be registered in the unit of kill.
- Carcass disposal - no removal from CWD management zone or all deer parts not used must go to a landfill.
- Deer baiting and feeding - banned in CWD management zone.
- Blaze orange - required during October 24 - January 31 gun season.
- State parks in the CWD management zone.

- Recreation conflict resolution - decisions to favor disease management.
- Deer kill effectiveness issues - testing capability; disposal convenience for unwanted deer; hunter non-participation or hunting elsewhere; landowner non-participation.
- How long will CWD management hunting rules last?
- Hunter and landowner participation - if not part of the solution, then they are part of the problem.
- Radical - yes, but we simply must be successful.
- Planned public input on rules - deer expo questionnaire; four focus groups of landowners and hunter; Mount Horeb; Conservation Congress; Eau Claire, Green Bay, Rhinelander, Waukesha; questionnaire at meetings and on DNR website.
- Timing issues - June NRB adoption of emergency rule. July 20 hunter choice application deadline; CWD zone hunting regulations pamphlet; public and landowner communications; order and distribute permits and tags; start removing deer as soon as possible; time to set up registration stations with special instructions; archery season starts in mid-September.

Discussion pursued regarding: general deer tags and why have tags.

Mr. Behnke - I would just like to express an appreciation for the tremendous job that the DNR is doing in reacting to this emergency. I am much very impressed at to where they are at now and how they are going about this. There is one thing that bothers me and that is how do we get people thinking positively about the future of deer hunting in Wisconsin? We need to incorporate, into our message to the public, that deer hunting will continue in Wisconsin because we are going to find some answers. Mr. Behnke then reflected on when PCB first became an issue but folks didn't stop fishing. We can tell people that we can do this but here are some guidelines to follow. Therefore, I think that if we can get the support of someone that understands the social aspects of hunting, such as Tom Haberlein, a sociologist a professor at the University of Wisconsin Madison. I believe that he should be added, Mr. Secretary, to the DATCP and DNR team and work hand in hand with them. The message should be that we are going to find some answers to this disease and that we are going to restore the confidence that the public needs to continue to hunt here. Not only for the social aspects but also to have the meat that is such a healthful thing.

Secretary Bazzell - I think those are very good comments that you provided Board Member Behnke. I too, in part, think the problem the staff has had convincing hunters around the state is an issue of statewide concern, not just a problem in south central Wisconsin. At the same time, while we have very good landowners for participation during the period of time that we were taking deer, we are not sure what the landowner reaction is going to be when we start talking about depopulating the herd. Certainly, we want to make sure that people understand the situation. I think you are right, we need to strike a battle to communicate that message. In fact, I will be sitting down this week with our communication team specifically discussing that issue in terms of how we can more effectively get that message out. I did, in fact, have the opportunity to talk with Tom Haberlein this week specifically regarding the issues you were describing. We had a very lengthy conversation and a very positive one. Certainly he has indicated a willingness to work with us and help. He will stop short in probably providing the wealth of participation that you and I want. In part because he is now retired and has a very large research grant and is under some pressure to get that work done. He has indicated that he will work with us, provide advice, council, and perhaps help us set up some methodologies and some approaches that we can take to continue to gage landowners sentiments. There is a way to gage, over time, where hunters are at, where other citizens are, and to see the issues.

Discussion pursued regarding: number of deer in units, helicopter surveys, management units, number of deer seen last year in CWD units, audit of the SAK System, verify population numbers, implementation of deer management control, sentiment of the landowners, hunters needing to work to help take care of this problem, possibility of restocking the deer herd, groups volunteering money to help with CWD, possibility of testing of all deer in the CWD units, regulating feeding and baiting,

Mr. Hauge - Thanked the DNR staff for all their efforts, overtime, weekends, their families are sacrificing to work on this problem and he stated that he very much appreciated it.

Chairman Solberg - I have asked Secretary Bazzell to give us monthly briefings on this.

Secretary Bazzell - Thanked the staff and Tom Hauge who is leading this effort. We would like to do an informational briefing in May. At that time, we will have a better sense of what the public feed back is on what is happening. Our goal in June would depend upon the legislature passing the budget repair bill that will give us the authority to begin to regulate the feeding. If that doesn't happen, at that time, we will need to make a decision on

whether to come forward with a part of a rule package. Then come back again at a subsequent date once that authority is, in fact, provided assuming it does occur as part of the budget repair bill.

No action was taken on this informational item.

4. Board Members' Matters.

- 4.A. Herbert Behnke - presented the Approval of proposed Adoption of a Resolution in support of the Warren Knowles/Gaylord Nelson Stewardship Fund.

**RESOLUTION
NATURAL RESOURCES BOARD**

WHEREAS, the State of Wisconsin has acquired land for conservation purposes for more than a century, thus establishing a remarkable tradition of land conservation, framing Wisconsin's present productive and beautiful landscape; and

WHEREAS, Wisconsin lands provide quality of life, space to recreate and renew our ties with nature, along with prosperity for its citizens through land use for agriculture, the forest industry, tourism and development for residences, commerce and industry; and

WHEREAS, conservation land acquisition, as well as grants for such actions and subsequent development of recreational facilities, have been the primary means by which the state has been able to protect critical habitats and natural resources, and to provide outdoor recreational opportunities for its citizens; and

WHEREAS, acquisition of such lands, when available at fair market value, is a responsibility of the Department of Natural Resources and the Natural Resources Board and should not be limited by a reduction in Stewardship dollars at this critical time of demand and escalating land values; and

WHEREAS, the state Legislature and the Governor recognized the value of the Stewardship program by renewing the Program for ten years and, in the 2001 Budget, approved 60 million dollars per year for the Fund. This Board finds these actions to be laudable and visionary as well as necessary to protect Wisconsin's vanishing natural resources; and

WHEREAS, as part of the current budget deliberations, some in the Legislature propose to significantly reduce the Stewardship Fund, at a time when increasing land prices and competing land needs have already diminished effectiveness of land conservation purchases; and

WHEREAS, the citizens of Wisconsin, among them, hunters, hikers, anglers and bird watchers, have steadfastly cherished their natural resources and outdoor recreational areas, and recognize the need to set aside the special places for natural diversity and beauty before these are irreparably lost; and

THEREFORE, BE IT RESOLVED, that this Board petitions the Legislature and Governor of the State of Wisconsin to stand behind the Knowles/Nelson Stewardship Fund and allow the previously approved 60 million dollars per year to remain in effect, and to celebrate the conservation benefits such support will yield.

NATURAL RESOURCES BOARD

Trygve A. Solberg
Chairman

Adopted this 24th of April, 2002 in Madison, Wisconsin.

Mr. Behnke MOVED, seconded by Mr. Tiefenthaler approval of proposed adoption of a Resolution in support of the Warren Knowles/Gaylord Nelson Stewardship Fund, as presented. The motion was carried unanimously by those members present. (Mr. Poulson was absent)

- 4.B. **Catherine Stepp** - Complimented the Conservation Congress and the Department of Natural Resource Wardens that were present at the spring hearings in Union Grove. We had a great turn out, very professionally done, not a lot of controversy but a lot of passion, as always. My hats off to them, they run a very nice organization down there. Attendance was good, to my knowledge no folks complained about not hearing about the hearing in my area.
- 4.C. **Gerald O'Brien** - My question is for Secretary Bazzell. I have been reading from time to time, particularly in the Milwaukee Journal, about this furniture factory in the western part of the state that is trying to get the right to fill in 14 acres of wetlands to expand. They keep being denied. They have gone to the legislature in a couple of different instances. I look at this and I see they have 3500 employees. I don't know these people or anyone involved, but I do know for a fact that there has been a lot of talk about moving the organization or headquarters out of state if they can't get this accomplished. It seems like such a minor thing. I remember, I think it was last year, that we passed some sort of a regulation that would allow mitigation by private individuals or industries and I remember specially asking the question. I have had a concern about this. Is this going to enable the Department to grant some exceptions, where this isn't hurting the wetland? It isn't massive amounts of acreage and it is going to enable businesses, industry, or individuals, whatever is necessary, to continue to reside in the state. On the same page in the Milwaukee Journal there was an article about all of the industries that have pulled out of the state because they can't compete, the climate is so unfavorable. I am not asking us to do anything terribly damaging or suggesting to the environment but you are talking 14 acres here. I use to represent a lot of furniture factories and I know there aren't any in the state anymore. They are all down south or they are out of business because they can't compete. We keep talking about wanting to have the best university, the best social services, the best recreation system, the best park system, the best everything, and yet we are loosing our tax base to do that. Look at our budget crisis now. To me this is a perfect example. We are loosing our ability to maintain those things in this state and we are going to have to recognize that some of those things are going to become second class in Wisconsin. We are going to become a second class state if we don't keep a tax base. We just plain and simply don't have it. I am looking at something like this and saying, maybe you don't have the answer right now, but isn't there a possibility to say that you can build your plant on this 14 acres so. According to them it is double handling if they move it to another site. Don't we have the authority to do that? I thought we did when we passed that mitigation bill or rule not too long ago.

Secretary Bazzell - Over a number of years there have been a number of acreage that have, in fact, been filled by the company with the authority of the Department. The most recent issue, about the 14 acres in question, has never culminated in an actual permit application. All the debate that has occurred to date, the press, the legislature, and other venues, there has never actually been an application to the Department for actual review. I visited the company, spent a day with the president and others, understanding the layout of the facility. We spent a fair amount of time simply discussing their business plan. Certainly their plans for expansion with or without the ability to fill those 14 acres is primarily going to happen outside of Wisconsin. That is happening primarily overseas, in the factories in the south moving out to California. As you all know, the best location for furniture companies is really where the population basis are. More specific to this issue, the amount of acreage is significant, there is no question about that. If you recall, this past year when we lost authority to regulate isolated wetlands, Wisconsin was the first and, in fact the only state, to step forward and deal with that important issue. If you recall, the debate that occurred at that time was whether or not local government would be given authority to fill in fractions of an acre under certain conditions, whether it was a public safety consideration. Under current law, there are no criteria that would allow us to a fill of this type of wetland based on economic considerations. The criteria primarily are based on environmental considerations on whether or not there are practical alternatives. More specific to your question about mitigation, mitigation law did in fact pass. There is a rule package that is now in place and we are in the process of implementing that rule package. That rule, that this Board passed, does not allow us to provide for mitigation to this circumstance. Given the location of this wetland, this floodplain, it is not a candidate for mitigation, regardless if it is one acre or 14 acres. It is not an option that we can, in fact, legally consider. This is a mitigation program we are working with local governments and developers to implement it but there are some side rules in terms of where we can, in fact, apply that rule. This is not a situation that we could consider.

Discussion pursued regarding: an alternative for the company, the company submitting a plan for staff to review, acquiring a track record in a reasonable amount of time, whether or not regulations are not driving people out of state, taxes, environmental leads, the Board's position having an impact, a level playing field for businesses to compete, the history and starting of this factory, the expense of double handing in factories, Chairman Solberg's visit to this site, and what this factory has done for the community in which it resides.

more encompassing because maybe it is written too strictly. From what I have understood already, I have heard that there wouldn't be any mitigation because it is written so tightly that no one is going to be able to get around it. I would be interested in what our performance is six months from now.

Secretary Bazzell - We would be happy to provide that information. The rule has only been in place a month or two so it has not had much of a chance to establish a track record. There has certainly been a strong interest in this rule package and a number of products have become backed up with developers in reference to waiting for this rule package to be enacted. We are now, in fact, in the process of working on those applications. We just haven't had enough time to establish a track record in terms of how many acres will, in fact, be affected by this rule. This one doesn't qualify because it is in the floodplain. Secretary Bazzell referred to pictures that he has seen of this area. There is no question and no one disputes that this land is a wetland. The company is very up front about that. They also acknowledge that the land floods regularly. Those are reasons why this wouldn't be a candidate under current law for the mitigation program, both under our rule and under the statute. We would certainly like them to submit a plan so that we could actually take a look at it and see. Our staff is familiar with the site and they think there are options out there. There are other locations where they can, in fact, add this additional facility they have been seeking for the past few of years. That is our staff's perspective. Certainly, we are willing to explore other options based on an initial project. In fact, the president stated that he didn't think they could meet our requirements and that is why they haven't submitted a plan. We are talking about an adjacent site, right next to the operation. They way that he has it set up he wants it in a special fashion and he is not willing to consider any deviation from that.

We are certainly willing to come back and visit this issue and share with the Board what is, in fact, occurring. As you should know with all of our rules the package that was agreed upon was agreed upon by developers, in fact Franc Fennessy, Deputy Secretary, and myself personally spent time with developers and local government to make sure the rule was passed in a way that was workable. This is not a package that was passed without all those kinds of considerations for those that are directly impacted, want to take advantage of mitigation opportunities. When they helped craft the rule, we felt very comfortable, and the parameters that were set.

Mr. O'Brien - could we have, at our next meeting, a little more background on this from the Secretary or from someone on the staff. What the situation is and why? And, if there is something we can do to help.

- 4.D. **Stephen Willett** - Mr. Secretary, Shell Lake is on the rise. My concern is that it is being held and dealt with at the district level and it is moving along. The concern is if there is another thunderstorm, similar to the one that was predicted for last night, that it would be a disaster area. Mr. Willett referred to a former employee who is representing one of the landowners in the city regarding this matter in a coalition they put together. He is experiencing considerable frustration with the speed in which this is going, particularly with permits to the culvert. If you could intercede with your skills and power, I would appreciate it. It is causing a disaster for us politically.

Secondly, the issue of what is policy and what is administration and when should we be consulted and when should we not. I was watching television, and an ad was on opposing burning by the air staff. In my 11 years here I sat through many presentations justifying the burning of the barrens and I am wondering if this, in fact, is not an issue that we should have some input into. I am getting a lot of inquiry in my area about why the Department has changed their position. Is this right, what is the deal on this? My answer is, I don't know. Do we in fact have two divisions fighting over the issue, air on one side and wildlife and land on the other side? I would like to get a report as to where this ad came from?

Secretary Bazzell - I am not familiar with that, but certainly will check into it, follow-up and report back to the Board.

- 4.E. **Howard Poulson** - Absent.

- 4.F. **James Tiefenthaler** - I have nothing.

- 4.G. **Chairman Solberg** - I have nothing.

Chairman Solberg called on Steve Oestricher, Chairman of the Conservation Congress.

research in the deer management program. And, the Congress certainly feels that more importantly now more than ever, it is critical to recovery data on natural mortality because we simply do not have any. Chairman Oestrieher further stated the Congress did request an SAK audit back in December and again more importantly now more than ever, that we secure some funding to have this audit done. Clearly, when the formula says that there are 40 to 45 deer per square mile in these infected areas and the helicopter survey comes up with over 100 there is something definitely wrong here.

Discussion pursued regarding CWD: costs, outside funding, surcharge, voluntary contributions, Conservation Congress assistance.

Mr. Oestrieher - One of the other things that you heard this morning were attacks on the spring hearing process. I came to you folks three years ago with a plan to improve the spring hearing process and make it an enjoyable and a positive experience for all of the folks that attend this. I honestly believe that the plan that we put in place is working quite well. The past three years alone, 50,000 people have attended the spring hearings. This is more than any other state in the nation could even dream of getting public participation on natural resources issues, I am extremely proud of that. We will continue to work with the Department to improve this more. I would like to invite the Board to our annual meeting which will be on May 9, 10, and 11 at the Chula Vista Resort at the Wisconsin Dells.

5. Special Committees' Reports.

There were no Special Committees' Reports this month.

6. Operating Committees.

6.A. Air, Waste and Water/Enforcement Committee.

6.A.1. Minutes. There were no committee minutes for March 2002 since all agenda items were taken up during the Full Board Meeting.

6.A.2. Adoption of Emergency Order FH-28-02 and authorization for hearing - creation of Chapter NR 109, Wis. Adm. Code, pertaining to aquatic plant management.

Jeff Bode, Lakes and Wetlands Section Chief, presented the adoption of Emergency Order FH-28-02 and authorization for hearing on the creation of Chapter NR 109 pertaining to aquatic plant management. Mr. Bode reviewed the background of this rule. The new Aquatic Plan law, Section 23.24, Stats., directs the Department to establish a program to protect and develop diverse and stable communities of native aquatic plants, to regulate how aquatic plants are managed and to provide education and conduct research concerning invasive aquatic plants. The Department is directed to designate by rule which aquatic plants are invasive and to administer and establish by rule procedures and requirements for issuance of aquatic plant management permits. Mr. Bode reviewed the questions and responses of the hearing results.

Discussion pursued regarding: fiscal impact, revenues, enforcement of the rule, agricultural ponds affected, exemptions, and specific cases.

Mr. Willett - Is it possible that we can get a report back? We have been criticized greatly for passing fees, taking the funds from those fees and using them for other activities.

Mr. Bode - That is a good point. We have checked and the fees will go to the same place that the aquatic plant permit and go into a special account and that money goes directly back providing services to people who are asking for those permits.

Citizen Participation on this item included:

Roger Walsh, Wauwatosa, representing Wisconsin Association of Lakes, was scheduled to appear but could not attend.

Mr. Tiefenthaler MOVED, seconded by Mr. O'Brien, adoption Emergency Order FH-28-02 and authorization for hearing - creation of Chapter NR 109, Wis. Adm. Code, pertaining to aquatic plant management. The order was carried unanimously by those members present. (Mr. Poulson was absent)

- 6.A.3. Adoption of Order RR-09-01 - revision of Chapters NR 700, NR 714, NR 722, NR 726, and NR 749, Wis. Adm. Code, pertaining to applying deed restrictions and deed notices to contaminated properties.

Dale Ziege, Division Data Coordinator, presented the adoption of Order RR-09-01 - revision of Chapters NR 700, NR 714, NR 722, NR 726, and NR 749, pertaining to applying deed restrictions and deed notices to contaminated properties. The rule change is a result of comments received during hearings on NR 746/Comm 46. The rule package clarifies criteria for applying deed restrictions to contaminated properties where residual soil contamination remains after site closure. The rule change is intended to inform future property owners of existing soil contamination; to replace deed notices with a solid GIS registry; and to ensure consistent application of deed restrictions by staff at the Department of Natural Resources and the Department of Commerce. The rule changes include a soil geographic information system (GIS) registry to replace the use of most soil deed notices. The soil GIS registry will be analogous to the groundwater GIS registry currently under development by the Department. Sites closed with residual soil contamination will be placed on the soil GIS registry as a means of notifying future owners/users of the property of the existence of soil contamination. Because of the GIS registry will notify the public of properties with solid contamination, the rule package repeals NR 714/.07(5), which previously required responsible parties to publish a legal notice in a local newspaper whenever they proposed to use a performance standard to address residual soil contamination. The rule sets out specific criteria for placing deed restrictions on properties with residual soil contamination. The rule package also proposes a change in the NR 749 fee schedule to enable the Department to recover costs in maintaining the soil GIS registry. Other related changes to Chapter NR 700 and 726 are included to define the term industrial and land use, to specify the contents of the required deed instruments, and to make the rules that were recently adopted to implement a groundwater GIS registry consistent with these new solid GIS registry rules. Mr. Ziege reviewed the hearing process, the attendance, and the comments.

Discussion pursued regarding: constitutional issues, slander on title, contaminated groundwater beneath property, registries, show of contamination, deeds, property rights, exposure letters, closure letters, deed restrictions, deed notices, consistent minimum standards, wells and sampling, groundwater elevation and water table maps.

Mr. O'Brien MOVED, seconded by Mr. Behnke, adoption Order RR-09-01 - revision of Chapters NR 700, NR 714, NR 722, NR 726, and NR 749, Wis. Adm. Code, pertaining to applying deed restrictions and deed notices to contaminated properties. The order was carried unanimously by those members present. (Mr. Poulson was absent)

Chairman Solberg, recognized Senator Baumgart and asked if he wished to address the Board.

Senator Baumgart- I do appreciate the consideration that you have allowed me. Some of you may or may not know unless you have been appointed before the Senate Environmental Resource Committee, that is the one that I chair. My committee has been very supportive of the Department of Agriculture, Department of Natural Resources, and Health in trying to address the chronic wasting disease and have added some things in the budget and we are willing to add more money, which isn't easy to come by now days. We have had two hearings and I have encouraged dual hearings with the Department of Agriculture, Department of Natural Resources, and Health. Our scene has been to make sure that we have all the support of the Departments and encourage them to move faster than slower and to provide the kind of leadership that I think that we need and be as aggressive as we can. We want the science, we want to be moving in a logical manner, but we want movement. I would encourage everyone, as I have told Agriculture, Health, and Natural Resources there is one goal out there. We really need to be together, we need to be scientific. Speed I think might be important and you need to give us direction. If we don't get it we may be more public than not. I encourage the Board and the Department and stress that whatever you need to do, and we need to error on the side of caution. Caution in the sense of the spread of the disease rather than waiting too long. But, I don't want to move quickly without knowing what we are doing. My committee has had two hearings, we encourage and have added things to the budget, and will do more if you ask. We also ask of you, Agriculture and Health to have the maximum leadership possible.

Chairman Solberg - Senator we had our monthly briefing on CWD this morning, it took place already. We want to get things moving as quickly as you do. But, to make sure we do it right, the Department has assured us that they are going to come back next month with something for June to have a plan put in place.

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Senator Baumgart - My committee has been very supportive of the congressional delegation, the Senators and elected Congressmen, and the Department of Agriculture are in support of the Governor's proposal. We want to do more but we want to have that leadership and I just wanted to point that out.

Mr. Behnke - Senator, a subject that is near and dear to your heart and mine, regarding the Stewardship Fund. The Board today passed a resolution that you will be receiving, requesting the legislators to restore the whole \$60,000,000. What do you see as a possibility of that being restored?

Senator Baumgart - The Senate, as you know, and my request among others, is to restore the \$60,000,000. The savings up front, over the short term, is some but it doesn't justify moving from \$60,000,000 to \$35,000,000. Senator Baumgart reflected on the budget deficit.

Mr. Tiefenthaler - Senator, this is day 56 and we have spent almost a half million dollars on CWD thus far. We are looking at wildlife damage claim money, we are looking at probably four million dollars. Where is your sense with funding?

Senator Baumgart - My initial request was to have a million. I have received some concerns by the farming communities, regarding money. I have encouraged the Conference Committee to stand behind this issue. This is an issue that is not republican or democrat. It has to do with making sure that we do everything that is possible up front. If we have a problem later on and we have about \$700,000,000 in the Wildlife Damage Fund, we would try and restore some of that later on. I am supportive of that and I have written Chuck Chvala. I will make sure that, when I get back to my office, I have written everyone on the Conference Committee, making sure they know where we stand. This is something that we can be proactive of and if there is anything that needs to be done and the U.S. government should be a little more aggressive with this.

Secretary Bazzell - To publicly acknowledge the role the legislature has played and Senator Baumgart in particular, has really pushed this issue forward. You have been very responsive. You have just talked about the funding side of this and we are certainly appreciative of your support and leadership you are providing there. For the Board's knowledge, your support is certainly helpful. In terms of how we are proceeding, as you have indicated you have had two full briefings, and I believe that you and others in the legislature are fairly up to speed in terms of what we have done thus far and where we are headed in the coming months. I certainly would like to invite you and others, if you see places where we could go faster, to let us know that. It is certainly our feeling that again you need to balance in making sure we have good information and moving forward expeditiously with the support of the people, who actually provide the management and those are the landowners, the hunters. Certainly, we will want to get out in front of them and you are certainly aware of the steps that we are taking right now. To reach out and talk very directly to hunters and landowners to make sure they understand the gravity of the situation, the options on the table, and looking to make sure that we have the support from them. Again at the end of the day, they are the people who we look to help us manage this specific problem. Again, if you see places that you think we could go faster or be more aggressive, I certainly would be receptive to those ideas.

6.A.4. Authorization for hearing on creation of Chapter NR 173, Wis. Adm. Code, pertaining to brownfields green space and public facilities grant program.

Darsi Foss, Brownfields Section Chief, presented the authorization for hearing on revision of Chapter NR 173, pertaining to brownfields green space and public facilities grant program.

Discussion pursued regarding others states compared to Wisconsin and the General Accounting Office study.

Mr. Willett MOVED, seconded by Mr. Tiefenthaler authorization for hearing on creation of Chapter NR 173, Wis. Adm. Code, pertaining to brownfields green space and public facilities grant program. The motion was carried unanimously by those members present. (Mr. Poulson was absent)

6.A.5. Authorization for hearing on revision of Chapter NR 200.03, Wis. Adm. Code, pertaining to permitting requirements of large private onsite wastewater treatment systems.

Roger Larson, Assistant to the Director of Bureau of Watershed Management, presented the authorization for hearing on revision of Chapter NR 200.03, pertaining to definition of large private onsite wastewater treatment systems. Mr.

Larson reviewed the history of the rule. These revisions are not mandated by state law but are needed to rectify an unintended interpretation and application of NR 200. The multiple system scenario is addressed in the existing s. NR 200.03(5) with language that states ". . . if one private sewage system is located near another private sewage system the design capacities of each of the systems shall be added together. . . ". The Department interpreted this language as

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referring to any two systems and if the sum of their design capacities exceeded 12,000 gpd, then a WPDES would be issued.

Discussion pursued regarding: environmental point of view, the Department of Commerce role, the impact on groundwater, situations already in existence, and new situations.

Mr. Tiefenthaler MOVED, seconded by Mr. O'Brien authorization for hearing on revision of Chapter NR 200.03, Wis. Adm. Code, pertaining to permitting requirements of large private onsite wastewater treatment systems. The motion was carried unanimously by those members present. (Mr. Poulson was absent)

6.A.6. Authorization for hearing on revision of Chapter NR 544, Wis. Adm. Code, pertaining to establishing the recycling pilot program for alternative compliance.

Catherine Cooper, Planning and Evaluation Section Chief, presented the authorization for hearing on revision of Chapter NR 544, pertaining to establishing the recycling pilot program for alternative compliance. This is a new pilot program which was developed in response to a directive in the last budget. This has been established as an amendment to an existing rule, NR 544, because pilot programs will operate in the same framework as our existing effective recycling programs. They will have options to recycle different materials from the ones that are currently part of the required program. Their objective is to allow the nine participating responsible units, the nine that were specified in statute, greater flexibility of the materials they recycle in order to respond to local market conditions and opportunities they may have. The responsible units will choose from a prescribed list of materials and then some additional more challenging interesting ones as well. Their aim is to improve Wisconsin's excellent recycling program not to lose ground. The recycling goal for each of the responsible units that participates will be to maintain or improve the level of recycling or what they call the recycling rate in the rule compared to their historic average over the last three years. Ms. Cooper reviewed the hearings, public input, listening sessions, and written comments of various stakeholders. This rule will affect haulers and other service providers and the facility operators that receive recyclable materials. If a participant of this pilot program chooses not to recycle one of the current ban materials, in what they call the 1995 recyclable materials, they will be allowed to dispose of those materials. They will still be considered in compliance with their effective program requirements. There is no financial incentive for this pilot program. That was one of the things on our minds at the public meetings. It would appeal to those who want the flexibility to drop an item that is difficult for them to market and they would then substitute something they can recycle more easily. It should make their program more efficient according to their own criteria. We will ask them to do a market analysis. Ms. Cooper handed out a one-page summary of the rule with a list of items that could be substituted for recycling.

Ms. Stepp - Are you saying that if a town no longer wishes to recycle an item such as glass because it is expensive for them to do, they can substitute something in its place and they can put glass in the landfills?

Ms. Cooper - Yes, but they still need to show us in their application they will be attaining the same or better recycling rate as what they had before. As defined in the rule, it is the percentage of the material they capture for recycling based on how much the total waste is they collect in that region. If they are currently recycling 30 percent of their waste removal and they want to discontinue glass recycling, they will need to find something on this list or a certain number of things on this list to recycle in place of glass that will still keep them at that level of recycling by weight.

Ms. Stepp - So it would be good to recycle computers compared to glass because of its weight.

Chairman Solberg - Is this for private individuals?

Ms. Cooper - Because this is a rule affecting responsible units, local governments, and their programs it first and foremost affects the residential program but we anticipate that local programs will change their ordinance to essentially keep consistency between residential sector and commercial sector. It would affect the commercial sectors in a geographic area.

Chairman Solberg - Our company runs a recycling unit, we make a small profit. We recycle everything to two places and most of the items on your list we recycle. I hear the communities don't make anything and we make a small profit.

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Ms. Stepp - I don't understand the idea. When you have people trained, like my family is trained to recycle all items that can be recycled. We are in the rhythm, I don't understand why the Department would want to disrupt breaking that rhythm when you already have people trained to recycle those products. Can't we just open it up so that we can recycle those other things too? What is the progress there?

Ms. Cooper - I think you have put your finger on one of our concerns, that is the public education that needs to prepare people for any change. That has to be done very carefully so you don't lose the credibility with the public. This proposal literally, a legislative idea, it is not something that we asked anyone for. The message is there needs to be greater flexibility in the materials to at least experiment with that.

Ms. Stepp - I think that all your credibility goes out the window when now you say you don't have to recycle this but we want you to recycle something else instead. I don't care how much public education you give people, you do lose credibility. It doesn't make sense to me to do this.

Mr. Tiefenthaler - Recycling is voluntary, is it not?

Ms. Cooper - No, recycling is mandatory in Wisconsin under local ordinance.

Mr. Willett MOVED, seconded by Mr. O'Brien authorization for hearing on revision of Chapter NR 544, Wis. Adm. Code, pertaining to establishing the recycling pilot program for alternative compliance. The motion was carried by a vote of five to one by those members present. (Mr. Poulson was absent)

Yes

Mr. Behnke
Mr. O'Brien
Mr. Willett
Mr. Tiefenthaler
Chairman Solberg

Opposed

Ms. Stepp

Abstention

Mr. Poulson

- 6.A.7. Authorization for hearing on revision of Chapter NR 549, Wis. Adm. Code, pertaining to recycling efficiency incentive grant program.

Mary Rose Teves, Environmental financial Assistance Section Chief, authorization for hearing on revision of Chapter NR 549, pertaining to recycling efficiency incentive grant program. Ms. Teves requested the Board to review page 17 of the green sheet packet. She stated that the dates under NR 549.09 Department review (3) 2., 3., and 4. should read as October 30, 2003 rather than October 31. Ms. Teves requested the date to be amended to October 30, 2003 in all three areas. The 2001 - 2003 budget bill created 287.235, stats., which mandated the creation of a grant program that provides additional funding to responsible units that operate efficient programs. The proposed rule implements that legislation by creating the recycling efficiency incentive grant program (REI Grant Program). With those changes, Ms. Teves requested the Board to approve the authorization with the presented changes.

Mr. Willett MOVED, seconded by Ms. Stepp authorization for hearing on revision of Chapter NR 549, Wis. Adm. Code, pertaining to recycling efficiency incentive grant program, as amended. The motion was carried unanimously by those members present. (Mr. Poulson was absent)

- 6.A.8. Authorization for hearing on revision of Chapter NR 447, Wis. Adm. Code, pertaining to creating asbestos citation system.

Patrick Kirsop, Small Business Section Chief, presented the authorization for hearing on revising of Chapter NR 447, pertaining to creating asbestos citation system. The proposed revisions to the rules will allow citation authority for the asbestos program. The new system would allow the Department to issue a citation for violations of program requirements and assess a forfeiture. The citation system applies to include violations of certain asbestos program requirements that include pre-inspection, notification, asbestos emission control, waste disposal, and both active and

inactive waste disposal site requirements. The forfeiture ranges from \$500 to \$5000. The forfeiture amount will be assigned based on the severity of the violation by the environmental warden issuing the citation. A second or subsequent violation within five years, from the first violation, allows for the minimum and maximum forfeitures to be doubled, to \$1000 to \$10,000, respectively.

Mr. Willett - I have a comment and I am going to vote against this. I think this is against the policy that we have been trying to establish for some time. We resigned, at least for the last 16 years, to have the Department, when we have violations, or potential violations to work with these people and come to some resolution. If it has been that they don't cooperate or if they don't come to some resolution we refer to the Justice Department, and they prosecute. If it doesn't rise to that level, then we would put pressure on the Department to work with them. This gives them an easy way out. They say that this isn't an easy matter, we are going to write a citation and they are out of it. It lets the wardens out there writing citations. I think this is contrary to what we have been working hard to do. I know we have been criticized, we have not been turning a lot over to the Department of Justice, but at the same time I think that we have succeeded in successfully continuing to abate pollution faster than any other state in the union and done so while allowing our economy if not thrive to survive. I am worried about, all of a sudden, now giving the wardens the power to write citations for environmental quality matters that need to be worked out between them and the Department.

Secretary Bazzell - We aren't making a change in the enforcement program, what we are talking about here is adding another tool, an intermediary tool. I have been involved in a number of asbestos cases myself in the last several years and you would be surprised with as long as we have been involved with regulating this there are still a lot of problems still out there right now. What we are looking for is some authority in between. This is a tool and that is what we are looking at right now. We are not looking at getting away from the enforcement process, this is something that is added onto that process.

Chairman Solberg - Mr. Willett, as chairman of that committee and you are going to vote against this, what about the rest of your committee?

Mr. Willett - My issue here is, again, environmental. We have made a big push on environmental issues for the Department to work with businesses to come to some idea. Only in those cases where they don't cooperate or they can't do it, do we prosecute. This changes that. You can say what you want about the fact that it is only a citation but it carries with it potential fines. I think it changes our philosophy. It allows whomever is working calling up a warden and saying come and write up a citation to someone who is in violation. How does writing a citation abate the problem?

Mr. Hochmuth - Reviewed the background. You all know that asbestos is an extremely dangerous substance and there are significant problems associated with improper abatement projects. We have been working in this area for years and we need some additional tools. The bottom line on this is that it is extremely inefficient to try and refer these people to the Department of Justice. It may take 18 to 24 months. By the time we get done, they may or may not be in operation anymore. The Department of Justice, for every dollar they spend in recovery, is modest. Typically these cases take a lot of time and we can't get a lot out of them. As mentioned, this is an additional tool that the staff needs. What we have here is another opportunity to create a tool that is a far more efficient way of getting the word out and apparently the only way that we can get through to them. The other aspect to this is there well may be support of this with the appropriate safeguards. We are not just talking about turning a bunch of people loose to issue citations. We want to send a signal to the right people, to the wrong people at the right time. The referral route is just not the efficient way to do it, we invest literally hundreds of hours and thousands and thousands of dollars in these cases and there are thousands of these projects that we can't issue a permit for and get involved in. That is why this additional tool is needed. There are safeguards in the law, making sure everything was legally acceptable. It is no different than fishing or hunting. If people know that there is an immediate sanction that will be applied if in the event their violation is discovered, it creates an incentive for compliance. What we have here are unscrupulous contractors that know in order to go through the step enforcement and the referral process takes a long time. If they know, in the mist of a violation that they can be cited on the spot under a civil forfeiture provision, they will be much more inclined to think twice before they go ahead and violate on these projects again. This is one of the worst things that we have to environmentally deal with. There are occupational hazards, it is a significant issue, and that is why we have tried various alternatives. We think we need this additional tool.

Mr. Willett - This is what I have been opposed to for the past 11 years, that this would be our reaction. It doesn't solve any problem, all it does is get more money.

Mr. Kirsop - Last September when I addressed the Board it was for this fee increase. We were suppose to get \$100.00 and we only got \$10.00. We see this as a tool to really effectively implement the program. The word is going to get out if we are able to site people for what they are doing wrong. There are a lot of contractors that are doing the right thing. There are a lot of contractors that are doing the wrong thing. Right now we are spending six full time equivalent staff in implementing this program. We are able to fund two full time equivalents and the rest of

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the money that we are bringing in we are using it for contacts or engaging local health departments in helping with this. We are trying to get out and educate the people and we feel that this is an appropriate tool to use.

Mr. Willett - Where do all proceeds from these forfeitures go?

Mr. Kirsop - They go into the school fund. They do not come back to us.

Ms. Stepp MOVED, seconded by Mr. O'Brien authorization for hearing on revision of Chapter NR 447, Wis. Adm. Code, pertaining to creating asbestos citation system. The motion was carried by a vote of four to two by those members present. (Mr. Poulson was absent)

<u>Yes</u>	<u>Opposed</u>	<u>Abstention</u>
Mr. Behnke	Mr. Willett	Mr. Poulson
Mr. O'Brien	Mr. Tiefenthaler	
Ms. Stepp		
Chairman Solberg		

- 6.A.9. Authorization for hearing on revision of Chapter NR 299 and Chapter NR 300, Wis. Adm. Code, pertaining to time limits for applications for waterway and wetland permits.

Scott Hausmann, Wetland Team Leader, presented the authorization for hearing on revision of Chapter 299 and Chapter 300, pertaining to permit time limits. Mr. Hausmann reflected on the previous hearings and the results. At the public notice period, it was discovered that three proposed amendments to Chapter NR 300 were not included in Order FH-06-02 and not been noticed or available for public comment. The final rule should come back for approval in June.

Discussion pursued regarding: 60 days versus 30 and 15 days, a request came from Ms. Stepp and Mr. Tiefenthaler for reasons from the Department as to why it is going to take another 45 days versus the original 15 days to let someone know their application is not complete.

Mr. Tiefenthaler MOVED, seconded by Ms. Stepp authorization for hearing on revision of Chapter 299 and Chapter NR 300, Wis. Adm. Code, pertaining to permit time limits for applications for waterway and wetland permits. The motion was carried unanimously by those members present. (Mr. Poulson was absent)

- 6.B. Land, Management Recreation and Fisheries/Wildlife Committee.

- 6.B.1. Minutes. There were no committee minutes for March 2002 since all agenda items were taken up during the Full Board Meeting.

- 6.B.2. Adoption of Order FH-34-01 - revision of Chapter NR 25, Wis. Adm. Code, pertaining to commercial fishing - outlying waters.

Michael Staggs, Director of Fisheries Management and Habitat Protection, presented the adoption of Order FH-34-01 - revision of Chapter NR 25, pertaining to commercial fishing - outlying waters. The proposed rule would change the minimum depth of commercial fishing for chubs in Lake Michigan. In the northern chub fishing zone it reduces the minimum depth from 55 fathoms to 45 fathoms during January 16 through the end of February and establishes a minimum depth of 45 fathoms during March 1 through April 25. In the southern fishing zone, it reduces the minimum depth from 60 fathoms to 45 fathoms during January 16 through the end of February and (south of 44 degrees 32 minutes north latitude) establishes a minimum depth of 45 fathoms during March 1 through April 25. Mr. Staggs presented the Board with a map outlining these areas. He stated that the sportsman were concerned in the Departments estimates so they wanted a sunset clause added in case they see problems.

Mr. Tiefenthaler MOVED, seconded by Mr. Willett, adoption Order FH-34-01- revision of Chapter NR 25, Wis. Adm. Code, pertaining to commercial fishing - outlying waters. The order was carried unanimously by those members present. (Mr. Poulson was absent)

Richard Steffes, Real Estate Director, Bureau of Facilities and Lands, presented the following land items:

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6.B.3. Honey Creek Wildlife Area land acquisition and donation - Racine County.

Mr. Willett MOVED, seconded by Ms. Stepp, that the Board accept the donation from the Racine County Conservation League and the National Wild Turkey Federation and approve the purchase of 28 acres from Rhonda Runzheimer for \$140,000 for the Honey Creek Wildlife Area in Racine County, and the Board approve a boundary modification to include the parcel in the project, as presented. The motion was carried unanimously by those members present. (Mr. Poulson was absent)

6.B.4. Statewide Natural Area land donation - Sauk County.

This item was deferred to a future meeting.

6.B.5. Statewide Natural Area land acquisition and donation - Bayfield County.

Mr. Willett MOVED, seconded by Ms. Stepp, that the Board accept the donation from James and Charlotte Selgeby and approve the purchase of 12 acres of land for \$34,750 for the Statewide Natural Area-Wild Lakes Program in Bayfield County and that a certificate of appreciation be sent to the Grantor and that an expression of appreciation be made part of the official records of the Natural Resources Board, as presented. The motion was carried unanimously by those members present. (Mr. Poulson was absent)

7. Department Secretary's Matters.

7.A. DONATION - Brule River Preservation Foundation is donating \$9,500 for a naturalist and a video production for the Brule River State Forest to educate users about the river and share with them how to responsibly use the river and minimize conflict between user groups.

Mr. Willett shared concerns regarding accepting this donation and the future master plan.

Discussion pursued regarding who would be making the video and whether it would be one sided.

Mr. Tiefenthaler MOVED, seconded by Mr. O'Brien, acceptance of the donation. The motion was carried by a vote of five to one by those members present. (Mr. Poulson was absent)

<u>Yes</u>	<u>Opposed</u>	<u>Abstention</u>
Mr. Behnke	Mr. Willett	Mr. Poulson
Mr. O'Brien		
Ms. Stepp		
Mr. Tiefenthaler		
Chairman Solberg		

7.B. Request from the Joint Legislative Committee for Review of Administrative Rules for Modifications to Order WM-40-00, Wis. Adm. Code, pertaining to December deer hunt of Deer 2000 Administrative Rule recommendations (adopted by NRB January 24, 2001) (Item 3.E. Minutes of January 24, 2001) (Modifications of Order WM-40-00 May 23, 2001) (Item 7.C. Minutes of May 23, 2001) (Modifications of NR 10 deer season frameworks October 24, 2001) (Item 7.B. Minutes of October 24, 2001) (Resolution by NRB December 5, 2001) (Item 4.1 Minutes of December 5, 2001) (Modifications of Order WM-40-00 March 27, 2002) (Item 7.A. Minutes of March 27, 2002).

Bill Vander Zowen - The Joint Legislative Committee took this up again, your request to committee was to have the December four day antlerless deer hunt statewide but just in zone T units where absolutely needed to control the herd. They proposed and wrote it on a compromise and that would apply basically south of Highway Eight. They have since told us that if the Board agrees with this they will not even take it up, they will consider it done.

Ms. Stepp MOVED, seconded by Mr. Willett, the Request from the Joint Legislative Committee for Review of Administrative Rules for Modifications to Order WM-40-00, Wis. Adm. Code, pertaining to December deer hunt of Deer 2000 Administrative Rule recommendations, as presented. The motion was carried unanimously by those members present. (Mr. Poulson was absent)

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The Board Meeting was adjourned at 1:56 p.m.